

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

**FCC 14M-4**  
09882

In the Matter of	)	EB Docket No. 11-71
	)	
<b>MARITIME COMMUNICATIONS/LAND</b>	)	File No. EB-09-IH-1751
<b>MOBILE, LLC</b>	)	FRN: 0013587779
	)	
Participant in Auction No. 61 and Licensee of	)	
Various Authorizations in the Wireless Radio	)	
Services	)	
	)	
Applicant for Modification of Various	)	Application File Nos.
Authorizations in the Wireless Radio Services	)	0004030479, 0004144435,
	)	0004193028, 0004193328,
	)	0004354053, 0004309872,
Applicant with <b>ENCANA OIL AND GAS (USA),</b>	)	0004310060, 0004314903,
<b>INC.; DUQUESNE LIGHT COMPANY, DCP</b>	)	0004315013, 0004430505,
<b>MIDSTREAM, LP; JACKSON COUNTY</b>	)	0004417199, 0004419431,
<b>RURAL MEMBERSHIP ELECTRIC</b>	)	0004422320, 0004422329,
<b>COOPERATIVE; PUGET SOUND ENERGY,</b>	)	0004507921, 0004153701,
<b>INC.; ENBRIDGE ENERGY COMPANY,</b>	)	0004526264, and 0004604962
<b>INC.; INTERSTATE POWER AND LIGHT</b>	)	
<b>COMPANY; WISCONSIN POWER AND</b>	)	
<b>LIGHT COMPANY; DIXIE ELECTRIC</b>	)	
<b>MEMBERSHIP CORPORATION, INC.;</b>	)	
<b>ATLAS PIPELINE-MID CONTINENT, LLC;</b>	)	
<b>AND SOUTHERN; CALIFORNIA REGIONAL</b>	)	
<b>RAIL AUTHORITY</b>	)	
	)	
For Commission Consent to the Assignment of	)	
Various Authorizations in the Wireless Radio	)	
Service	)	

**ORDER**

**Issued: January 27, 2014**

**Released: January 27, 2014**

**Request to Extend Appeal Window**

In a filing made late on January 17, 2014, Warren Havens requested that the Presiding Judge extend the five day window for the appeal of interlocutory rulings under 1.301(a) until five

days after the January 17 “prehearing transcript (approved as to accuracy by the persons that spoke, and made final) is made available to [Mr. Havens] by proper notice and service.”<sup>1</sup>

Appeals made under Section 1.301(a) of the Commission’s Rules are reviewed by the Commission as a matter of right. Just as the Presiding Judge cannot decide whether or not the Commission should review such appeals, he also lacks the authority to alter such an appeal’s filing window, which is codified at Section 1.301(c)(2) of the Commission’s Rules. Therefore, Mr. Havens’ request must be denied.

As for the transcript of the prehearing conference of January 17, if Mr. Havens wishes an expedited copy of the transcript at his own expense, he or his counsel can make a request directly of the court reporting company utilized by the Commission for the prehearing conference, *i.e.*, Neil R. Gross & Co., Inc., telephone number (202) 234-4433.<sup>2</sup> If any party believes it has discovered a glaring error in the transcript, it must bring that error to the attention of the Presiding Judge and the other participants.

### **Request to Strike**

Mr. Havens also requests that the Presiding Judge strike statements made by Robert Keller, counsel for Maritime Communications/Land Mobile, LLC (Maritime), at the January 17, 2014 conference because, according to Havens, they were “not within the subject of *Order*, FCC 14M-1.”<sup>3</sup> This request is also denied. At the prehearing conference, Mr. Keller urged the Presiding Judge to focus on the pending Joint Motion for Summary Decision and stated his intent file a motion regarding Mr. Havens’ representation in the coming days. Maritime is entitled to make relevant arguments to the Presiding Judge in an open conference as to the issues that Maritime believes should be resolved in prehearing proceedings.

### **Clarifications**

#### *A.*

On January 22, 2014, Mr. Havens left a voicemail message for the Presiding Judge’s staff asking for clarification on how the Presiding Judge “serves copies of his orders on [Mr. Havens] as a *pro se* [litigant].” Unlike a litigant, the Presiding Judge is not required to “serve” copies of his orders upon parties. Rather, the Presiding Judge “issues” orders and “releases” them to the parties, to counsel, and to the rest of the public.<sup>4</sup> In this proceeding, the Presiding Judge has chosen to directly e-mail orders to the parties’ counsel and to Mr. Havens as a *pro se* party.<sup>5</sup> As

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<sup>1</sup> Objections, Requests and Clarifications Regarding the Prehearing under Order FCC 14M-1 (the “Order”) at 3. It is noted here that there is no set time within which a party must receive a proofed transcript, *i.e.* there is no applicable “proper notice and service” of a proofed conference transcript.

<sup>2</sup> Mr. Haven and counsel were provided with notice of this ruling via e-mail on January 22, 2014.

<sup>3</sup> *Id.*

<sup>4</sup> See 47 C.F.R. § 1.4(b)(2).

<sup>5</sup> The Presiding Judge’s decision to release orders via e-mail benefits the parties by providing them with immediate, actual notice of his rulings on the release date. He refers to these e-mails as “courtesy copies” as a matter of convention. This reference should not be read to indicate that their release by the Presiding Judge and subsequent

soon as possible thereafter, the Presiding Judge's orders are archived on the Commission's Electronic Comment Filing System to inform non-party members of the public, and the media, of the contents of the orders.

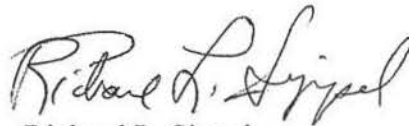
*B.*

On January 24, 2014, Mr. Havens left another voicemail that was confirmed by e-mail: the Presiding Judge's staff was asked for clarification on the description of items due to the Presiding Judge on February 7, 2014 under *Order*, FCC 13M-19. The subsequent filing of the Joint Motion for Summary Decision on Issue G now requires the Presiding Judge and his staff to "thoroughly evaluate the myriad of factual and legal matters presented by [the Enforcement] Bureau and Maritime, as well as those submitted in Mr. Havens' opposition papers and in the other parties' responses."<sup>6</sup> Therefore, while the summary decision motion is under advisement, the procedural hearing calendar set in *Order*, FCC 13M-19, must be suspended. Accordingly, the Presiding Judge ordered the calendar suspended in *Memorandum Opinion and Order*, FCC 13M-22.

Accordingly, no filings are due on February 7, or on any of the other dates set in *Order*, FCC 13M-19. Such procedural dates will be reset in a future order, if necessary, after consultation with the litigating parties.

**SO ORDERED.**

FEDERAL COMMUNICATIONS COMMISSION<sup>7</sup>



Richard L. Sippel  
Chief Administrative Law Judge

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receipt by counsel and Mr. Havens lack legal significance. Any counsel assisting Mr. Havens have been added, and will continue to be added, to the distribution list following their filing of Special or Limited Notices of Appearance.

<sup>6</sup> *Memorandum Opinion and Order*, FCC 13M-22 at 2 ¶ 2.

<sup>7</sup> Courtesy copies of this *Order* are e-mailed on issuance to each counsel and Mr. Havens.